REMARKS

In a final Office Action dated May 10, 2005, the Examiner rejected claims 8 and 9 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claims the subject matter which the applicant regards as the invention. The Examiner rejected claims 1-10 under 35 U.S.C. §102(e) as being anticipated by Jindal et al. (U.S. patent no. 6,327,622, hereinafter referred to as "Jindal"). The Examiner rejected claims 11-14 under 35 U.S.C. §103(a) as being unpatentable over Jindal in view of Couland et al. (U.S. patent no. 6,253,230). The rejections are traversed and reconsideration is hereby respectfully requested.

The Examiner rejected claims 8 and 9 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claims the subject matter which the applicant regards as the invention. In particular, the Examiner noted the lack of antecedent basis for the phrase "said combination." Accordingly, the applicants have amended each of claims 8 and 9 to delete the phrase "said combination." Accordingly, the applicants respectfully request that the Examiner withdraw the rejection of claims 8 and 9 under 35 U.S.C. §112, second paragraph.

The Examiner rejected claims 1-10 under 35 U.S.C. §102(e) as being anticipated by Jindal. With respect to claim 1, the Examiner contended that Jindal teaches grouping multiple servers into first and second server groups, wherein said first server group has a load level less than a load level of said second server group (col. 9, line 48 to col. 10, line 40) calculating a time period T (col. 2 lines 40-67; col. 4, lines 57-67; col. 6, lines 35-64; col. 8, lines 1-7 and 47-54; and col. 9, line 14-27), assigning load to a server selected from a group of servers comprising said first server group from an initial time until expiration of said time period T (col. 4, lines 57-67; col. 6, lines 35-64; and col. 9, line 14-27), determining another group of servers comprising said group of servers that includes said first server group and further comprising said second server group (col. 8, line 55 to col. 10, line 40), and assigning load to a server selected from said another group of servers after expiration of said time period T (col. 4, lines 57-67; col. 6, lines 35-64; col. 8, lines 1-7 and 47-54; and col. 9, line 14-27).

7

The applicants respectfully disagree with the Examiner's interpretation of Jindal. Jindal teaches a selection and subsequent re-selection of a server from a same group of servers. That is, Jindal teaches a central server that periodically determines a server from a same group of servers to be the "preferred" server to which client requests are routed. In order to select the preferred server, the central server periodically collects one or more items of information concerning each server in the group, such as a number of clients being serviced by the server at that moment, a number of client requests handled by the server in a predetermined period of time, and a distance of the server from the central server. Based on the collected information, the central server then selects a server from the group of servers to be the preferred server. The group of servers may comprise multiple servers directly connected to the central server (servers 110, 112, and 114 in FIG. 2), or the group of servers may comprise multiple servers that are indirectly connected to the central server (servers 302, 304, 312, and 314, which are connected to central server 100 via intermediate servers 306 and 316 in FIG. 3). However, in both instances, the preferred server is selected by the central server from the same group of servers at each selection point. Thus load balancing is performed not by varying the groups of servers analyzed, but instead by periodically analyzing each server in the group.

By contrast, claim 1 teaches load balancing by varying the groups of servers considered. That is, claim 1 teaches grouping multiple servers into a first and second server groups, assigning load to a server selected from a group of servers comprising the first server group from an initial time until expiration of a time period T, determining another group of servers comprising the group of servers that includes the first server group and further comprising the second server group, and assigning load to a server selected from the another group of servers after expiration of the time period T. Nowhere does Jindal teach such load balancing. Accordingly, the applicants respectfully request that claim 1 may now be passed to allowance.

Each of claims 2-4 includes limitations of assigning load to a server selected from a group of servers comprising a first server group from an initial time until expiration of said time period T, determining multiple other groups of servers comprising the group of servers that includes the first server group and further comprising another server group of

8

multiple other servers groups, and assigning load to a server selected from a group of servers of the multiple other groups of servers after expiration of said time period T. As noted above, none of these limitations are taught by Jindal. Accordingly, the applicants respectfully request that claims 2-4 may now be passed to allowance.

Since claims 5-14 depend upon allowable claim 4, the applicants respectfully request that claims 5-14 may now be passed to allowance.

As the applicants have overcome all substantive rejections and objections given by the Examiner and have complied with all requests properly presented by the Examiner, the applicants contend that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the applicants respectfully solicit allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter.

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9